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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Communications Assistance for)
Law Enforcement Act)

CC Docket No. 97-213

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To: The Federal Communications Commission

COMMENTS OF TRITON PCS

Triton PCS Operating Company, LLC ("Triton"), by its attorneys, hereby submits its comments on the "Petition to Suspend Compliance Date" filed by the Cellular Telecommunications Industry Association ("CTIA") in the above-referenced proceeding.¹ Triton strongly supports the CTIA Petition and urges the Federal Communications Commission ("Commission") to suspend the compliance date for the two Punch List items that currently remain subject to the September 30, 2001 compliance date. Like many other wireless carriers, Triton simply will not have the technical capability to comply with the Punch List items until its equipment suppliers develop and implement the software and hardware upgrades necessary to permit CALEA compliance, and these upgrades can be successfully installed within Triton's network.

I. BACKGROUND

As a wireless service provider subject to CALEA requirements, Triton has a substantial interest in the outcome of this proceeding. Triton holds one cellular and seven

¹ Communications Assistance for Law Enforcement Act, Petition to Suspend Compliance Date, CC Docket No. 97-213 (filed Aug. 23, 2000) ("CTIA Petition").

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PCS licenses primarily covering lower population density markets within the states of Virginia, North Carolina, South Carolina, Georgia, Tennessee and Kentucky. Triton commenced service in January 1999 and continues to implement its network, which should be substantially complete by the end of 2001.²

Triton agrees that the recent D.C. Circuit remand of certain Punch List items has “created enormous uncertainty in the industry about how to proceed” with CALEA compliance.³ Moreover, many carriers, including Triton, must rely on their software and hardware manufacturers to achieve compliance. These manufacturers are actively working to develop the complex software and hardware upgrades necessary for carriers to comply with CALEA. With four of the six Punch List items remanded to the Commission for further consideration, however, manufacturers are now uncertain as to how to proceed with development of the software and hardware elements necessary to permit compliance with *any* of the Punch List items. This plainly impacts the delivery estimates manufacturers and carriers were operating under prior to the court’s action. As a result, the Commission should suspend the deadline for all Punch List items until the uncertainty associated with CALEA compliance is resolved.

II. ARGUMENT

The Commission may extend a carrier’s CALEA compliance dates “if the Commission determines that compliance with the assistance capability requirements . . . is not reasonably achievable through application of technology available within the

² Currently, Triton’s network contains seven Ericsson Mobile Switching Centers and two Home Location Registers.

³ See CTIA Petition at 4.

compliance period.”⁴ In making this determination, the Commission will consider factors such as the availability of CALEA-compliant equipment and software, and “the proximity of CALEA compliance to other network upgrades required by the petitioning carrier.”⁵ The Commission also has stated that it will consider compliance costs.⁶

As indicated in Triton’s recent Section 107(c) Petition for Extension, Triton is wholly dependent on its equipment vendor, Ericsson, to provide a CALEA compliance solution that will function properly without disrupting service to Triton’s customers.⁷ Although Ericsson has been working to create a CALEA-compliant solution for Triton and other wireless carriers, Ericsson had communicated to Triton in June, 2000 that Ericsson’s software and hardware upgrades necessary to meet the Punch List requirements will be available no earlier than the first quarter of 2002.⁸ Thus, Ericsson does not expect to have *any* of the Punch List capabilities available to Triton or other customers until at least that time.⁹

⁴ 47 U.S.C. § 1006(c).

⁵ CALEA Section 103 Compliance and Section 107(c) Petitions, CC Docket No. 97-213, Public Notice, FCC 00-154 (rel. Apr. 25, 2000).

⁶ Communications Assistance for Law Enforcement Act, *Third Report and Order*, 14 FCC Rcd 16794, 16809 (1999).

⁷ See Triton Petition for Extension, CC Docket No. 97-213 (filed May 31, 2000) at 4-6.

⁸ Prior the Court's decision to remand 4 of the 6 Punch List items, Ericsson personnel had written to Drew Davies, V.P. of Business Security for Triton, on June 2, 2000: “CALEA Punch list functionality is currently scheduled for delivery in [software] Version 8.0 in 1Q2002. However, the time schedules and requirements for CALEA have changed many times over the past 5 years . . . our Punch List delivery schedule could change if necessary to adjust to the complicated and evolving situation.” See also Triton Petition for Extension, CC Docket No. 97-213 (filed May 31, 2000) at 6.

⁹ Moreover, full implementation of system upgrades may be several months after the vendor’s release date to allow time to resolve unforeseen technical complications. Thus, even assuming that Ericsson releases its V.8 software by first quarter 2002, actual deployment in Triton’s network may be as late as fourth quarter 2002.

Because of the uncertainty caused by the D.C. Circuit's remand decision, and because of the enormous cost and technical complexity associated with attempting to separate the software and hardware capabilities for the four vacated Punch List items from the remaining two, the Commission should suspend the compliance deadline for *all* Punch List items until outstanding CALEA compliance issues are resolved. Such a suspension will "ensure an orderly and cost-efficient implementation rather than a piecemeal, multi-stage deployment of features."¹⁰

A suspension of the two remaining Punch List items will save all parties time and resources. As CTIA correctly notes, "disentangling the vacated features from the two remaining Punch List capabilities is a complex and extremely inefficient process. . . . [and] [t]hese capabilities cannot simply be pulled out of the standard and provided on an *a la carte* basis without further meetings and review of the technical implications."¹¹ Even without the remand, it was unlikely that wireless carriers would have been able to comply with the two remaining Punch List items by September 30, 2001. For its part, Triton has no feasible alternative but to await the availability of Ericsson's CALEA solution. To avoid unnecessary drain on Commission and industry resources, and a large number of emergency petitions, the Commission should immediately suspend the deadline for compliance with all Punch List items.

¹⁰ CTIA Petition at 5.

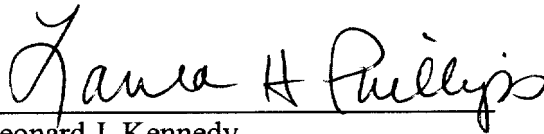
¹¹ *Id.*

III. CONCLUSION

For the foregoing reasons, Triton urges the Commission to grant the CTIA petition and suspend the compliance date for *all* Punch List items until it completes its proceeding on remand.

Respectfully submitted,

TRITON PCS OPERATING COMPANY, LLC

A handwritten signature in black ink, appearing to read "Leonard J. Kennedy", written over a horizontal line.

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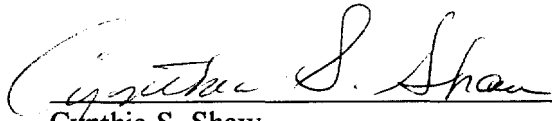
September 15, 2000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "**Comments of Triton PCS**" was sent by hand delivery this 15th day of September, 2000 to the following:

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*Via hand delivery


Cynthia S. Shaw